

Testimony Submitted for the Record
by
Chairman James J. Hoecker
Federal Energy Regulatory Commission
to the
Subcommittee on Water and Power
Committee on Energy and Natural Resources
United States Senate

July 28, 1999

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to comment on S. 1236, an act to extend the construction deadlines applicable to a hydroelectric project licensed by the Federal Energy Regulatory Commission.

Section 13 of the Federal Power Act requires that construction of a licensed project be commenced within two years of issuance of the license. Section 13 authorizes the Commission to extend this deadline once, for up to an additional two years. If project construction has not commenced by this deadline, the Commission is required to terminate the license.

On March 27, 1989, the Commission issued a license to five Idaho irrigation districts to construct and operate the 60-megawatt Arrowrock Dam Project No. 4656, to be located at the U.S. Bureau of Reclamation's Arrowrock Dam and Reservoir on the South Fork of the Boise River, in Elmore and Ada Counties, Idaho. The deadline for the commencement of project construction,

originally March 26, 1991, was extended by the Commission to March 26, 1993. Under the terms of P.L. 102-486, the deadline was further extended until March 26, 1999. On May 3, 1999, the Commission issued notice of the probable termination of the Project No. 4656 license for failure to commence project construction by the March 26, 1999 deadline. The license has not yet been terminated.

Construction of the project entails installation of two 180-foot-long penstocks; excavation of a 90-by-50-foot tailrace; and construction of a powerhouse, a 15.2-mile-long, 138-kV transmission line, and related project facilities.

S. 1236 would authorize the Commission, upon the request of the licensee and in accordance with the good faith, due diligence, and public interest requirements of Section 13, to extend the deadline for commencement of construction until March 26, 2005.

As a general matter, enactment of bills authorizing or requiring construction extensions for individual projects delays utilization in the public interest of an important energy resource and therefore is inappropriate. In cases where project-specific extensions are authorized by the Congress, however, they should be of relatively short duration and respond only to the

practical but unforeseeable needs of the licensee. I can think of no case where granting a licensee more than ten years from the issuance date of the license to commence construction meets those criteria, absent a showing of extraordinary circumstances. I believe ten years is a more than reasonable period for a licensee to determine whether a project is economically viable and to sign a power purchase agreement. If a licensee cannot meet such a deadline, I believe as a general matter that the license should be terminated pursuant to Section 13, so that the site is once again available for whatever uses current circumstances may warrant, based on up-to-date information on economic and environmental considerations.

The proposed legislation would give the license holder of Project No. 4656 fully 16 years to commence construction -- 12 years more than the maximum allowed under Section 13. During that intervening time, substantial changes in economic factors such as the cost of project power and relevant public interest considerations such as the project's environmental impacts could affect the viability of the project. Because S. 1236 would extend the construction commencement date beyond ten years from the issuance of the Project No. 4656 license, I do not support its enactment.